**AN OPTION AGREEMENT TEMPLATE**

Table Of Contents

[1. INTERPRETATION 33](#_Toc494879668)

[2. DEVELOPER'S OPTION 35](#_Toc494879669)

[3. ASSIGNABILITY OF AGREEMENT 35](#_Toc494879670)

[4. PLANNING 35](#_Toc494879671)

[5. EXTENSIONS TO DEVELOPER'S OPTION PERIOD 36](#_Toc494879672)

[6. PLANNING OBLIGATIONS 36](#_Toc494879673)

[7. ACCESS 37](#_Toc494879674)

[8. EXERCISE OF DEVELOPER'S OPTION 37](#_Toc494879675)

[9. DEPOSIT 37](#_Toc494879676)

[10. SALE AND PURCHASE 38](#_Toc494879677)

[11. CONDITIONS 38](#_Toc494879678)

[12. RISK AND INSURANCE 39](#_Toc494879679)

[13. DEDUCING TITLE 39](#_Toc494879680)

[14. VACANT POSSESSION 39](#_Toc494879681)

[15. TITLE GUARANTEE 40](#_Toc494879682)

[16. MATTERS AFFECTING THE PROPERTY 40](#_Toc494879683)

[17. TRANSFER 40](#_Toc494879684)

[18. DEVELOPER'S PURCHASE PRICE 40](#_Toc494879685)

[19. LEGAL AND SURVEYOR'S COSTS 41](#_Toc494879686)

[20. VAT 41](#_Toc494879687)

[21. COMPLETION 42](#_Toc494879688)

[22. NON-EXERCISE OF DEVELOPER'S OPTION AND OWNER'S OPTION 42](#_Toc494879689)

[23. TERMINATION 42](#_Toc494879690)

[24. ENTIRE AGREEMENT 44](#_Toc494879691)

[25. JOINT AND SEVERAL LIABILITY 44](#_Toc494879692)

[26. NOTICES 44](#_Toc494879693)

[27. THIRD PARTY RIGHTS 45](#_Toc494879694)

[28. GOVERNING LAW 45](#_Toc494879695)

[29. JURISDICTION 45](#_Toc494879696)

[Schedule 1 - Developer's Option Notice 47](#_Toc494879697)

**THIS AGREEMENT IS DATED**

**Between**

1. [ ] of [ ](the **Owner**); and
2. [ ] incorporated and registered in England and Wales with company number [ ] whose registered office is at [ ](the **Developer**).

**Background**

1. The Owner owns the property at [ ] and has agreed to grant the Developer a call option to buy it in accordance with the terms of this agreement.
2. The parties have agreed that the Developer will apply for planning permission for [ ] on the property.

**Agreed Terms**

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

* 1. Definitions:

|  |  |
| --- | --- |
| **Application:** | an application for Planning Permission in the form of the draft attached. |
| **Completion Date:** | the date determined in accordance with clause 50.1 or clause 50.2 (as the case may be). |
| **Contract Rate:** | 4% per annum above the base rate from time to time of Barclays Bank plc. |
| **Deposit:** | £ (exclusive of VAT) in the event of exercise of the Developer's Option |
| **Determining Authority:** | the local planning authority or other appropriate determining body or person. |
| **Developer's Conveyancer:** | [ ] or such other conveyancer as may be notified from time to time in writing to the Owner. |
| **Developer's Option:** | the option granted by the Owner to the Developer by this agreement. |
| **Developer's Option Notice:** | written notice exercising the Developer's Option in the form set out in Schedule 1 to this agreement. |
| **Developer's Option Period:** | subject to extension in accordance with clause 34, the period of [ ] from the date of this agreement [up to and including [ ] |
| **Developer's Option Sum:** | £ (exclusive of VAT). |
| **Developer's Purchase Price:** | the amount calculated in accordance with clause 47 (exclusive of VAT). |
| **Electronic Payment:** | payment by electronic means in same day cleared funds from an account held in the name of the Developer’s Conveyancer at a clearing bank to an account in the name of the Owner’s Conveyancer. |
| **Expert:** | an independent chartered surveyor with at least ten years' experience in valuing properties similar to the Property, for uses similar to the Proposed Development, whose usual place of practice is within a [ ] mile radius from the Property and who is a Member or Fellow of the RICS, appointed in accordance with clause 47. |
| **Long Stop Date:** | [ ] |
| **Market Value:** | the best price for which the Property as a whole should exchange as at the date of exercise of the Developer's Option with the benefit of any Planning Permission that has been obtained, assuming:   1. a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties have each acted knowledgeably, prudently and without compulsion. ; and 2. that the Property has the benefit of any easements, wayleaves, sight-line covenants and other agreements necessary to provide access, visibility splays or services to and from the Proposed Development; and 3. that in the event of any damage to or destruction of the Property due to any insured or uninsured risk, the Property has been fully reinstated. |
| **Owner's Conveyancer:** | [ ] [or such other conveyancer as may be notified from time to time in writing to the Developer. |
| **Owner's Retained Land:** | the freehold property at [ ] shown edged in [ ] on the plan attached to this agreement and being the remainder of the land (excluding the Property) registered at HM Land Registry with title absolute under title number [ ] |
| **Part 1 Conditions:** | Part 1 of the Standard Commercial Property Conditions (Third Edition) and Condition: means any one of them. |
| **Part 2 Conditions:** | Part 2 of the Standard Commercial Property Conditions (Third Edition). |
| **Planning Obligation:** | a statutory obligation that is necessary for or will materially assist in:   1. obtaining Planning Permission; or 2. carrying out the Proposed Development;   including an obligation under section 106 of the Town and Country Planning Act 1990, section 38 or section 278 of the Highways Act 1980 or section 104 of the Water Industry Act 1991. |
| **Planning Permission:** | detailed planning permission for the Proposed Development on the Property. |
| **Property:** | the freehold property at [ ] shown more particularly delineated in red on the plan attached to this agreement and being part of the land registered at HM Land Registry with title absolute under title number [ ] |
| **Proposed Development:** | [ ] |
| **Purchase Price:** | the Developer's Purchase Price payable by the Developer in respect of the Developer’s Option. |
| **RICS:** | Royal Institution of Chartered Surveyors. |
| **VAT:** | value added tax or any equivalent tax chargeable in the UK |
| **Working Day:** | any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday. |

* 1. Clause and Schedule headings will not affect the interpretation of this agreement.
  2. Unless the context otherwise requires, references to clauses or Schedules are to the clauses and Schedules of this agreement.
  3. Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended from time to time.
  4. A reference to a statute or statutory provision will include all subordinate legislation made from time to time under that statute or statutory provision.
  5. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
  6. A reference to **writing** or **written** includes fax but not email.
  7. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
  8. Any reference to the **Owner** includes its successors in title.

1. DEVELOPER'S OPTION
   1. On the date of this agreement, the Developer will pay the Developer's Option Sum to the Owner by Electronic Payment. The Developer's Option Sum does not form part of the Developer's Purchase Price.
   2. In return for the Developer's Option Sum, the Owner grants the Developer the Developer's Option during the Developer's Option Period to buy the Property at the Developer's Purchase Price.
2. ASSIGNABILITY OF AGREEMENT
   1. The grant of the Developer's Option is personal to the Developer. The Developer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement or any part of it.
   2. The Owner may assign the benefit of the Owner's Option to successors in title to the Property.
3. PLANNING
   1. Before submitting the Application to the Determining Authority, the Developer will obtain the Owner's approval to the Application, which is not to be unreasonably withheld or delayed.
   2. The Developer will submit the Application at its own cost to the Determining Authority by [ ] [in the joint names of the Owner and the Developer.
   3. The Developer may not vary or amend the Application without the Owner's consent, which is not to be unreasonably withheld or delayed].
   4. The Developer will use its best endeavours to obtain the Planning Permission within the Developer's Option Period and will pursue the Application and any Planning Obligation and any appeal permitted by the terms of this agreement expeditiously and diligently.
   5. The Developer will supply the Owner with copies of all correspondence (including accompanying plans and other documents) between the Developer and the Determining Authority, highway authority, service undertakers, local residents within [ ] Working Days of receipt and will keep the Owner regularly informed as to progress of the Application.
   6. The Developer will give the Owner at least [ ] Working Days' notice of any meetings to be held with the Determining Authority, highway authority, service undertakers, local residents and will give the Owner the opportunity to attend.
   7. The Developer will, at its own cost, appeal to the Secretary of State against:
      1. a deemed refusal of the Application within eight weeks of submission (or such longer period as may be agreed with the Determining Authority); or
      2. an actual refusal of the Application; or
      3. a grant of Planning Permission subject to conditions that are not reasonably acceptable to the Developer.
   8. The Owner will give all reasonable assistance to the Developer in seeking to obtain Planning Permission subject to the Developer paying all the Owner's costs in so doing.
   9. The Developer will supply the Owner with a copy of the decision notice on the Application or any appeal within [ ] Working Days of receipt.
4. EXTENSIONS TO DEVELOPER'S OPTION PERIOD
   1. Subject to clause 33.9 and the Developer having complied with clause 33.4, if at the end of the Developer's Option Period, the Developer is awaiting a written decision on the Application, the Developer's Option Period will be extended for a period ending at midnight marking the end of the [ ] day after the date the written decision notice is issued.
   2. Subject to clause 33.9 and the Developer having complied with clause 33.4, if at the end of the Developer's Option Period, the Developer has submitted an appeal pursuant to clause 33.7 and has not yet received the written decision notice, the Developer's Option Period will be extended for a period ending at midnight marking the end of the [ ] day after the date the written decision notice is issued.
   3. Notwithstanding the provisions of clause 34.1 and clause 34.2, the Developer's Option Period shall not in any circumstances extended beyond the Long Stop Date.
5. PLANNING OBLIGATIONS
   1. If requested by the Developer, the Owner will enter into any Planning Obligation provided that:
      1. any liabilities in the Planning Obligation are expressed to be dependent upon the grant and implementation of the Planning Permission;
      2. the Developer indemnifies the Owner against all expenses and liabilities arising out of the Planning Obligation and the transfer of the Property will contain a covenant by the Developer to that effect; and
      3. all the Owner's reasonable legal and surveyors' costs and disbursements incurred in connection with the Planning Obligation are paid by the Developer in accordance with clause 48; and
      4. the Planning Obligation, in the Owner's reasonable opinion, is not likely to result in a reduction in value of the Owner's Retained Land.
6. ACCESS
   1. The Owner grants licence for the Developer, its agents and contractors, with or without plant and machinery, to enter the Property at all reasonable times during the Developer's Option Period, after giving at least [ ] Working Days'] notice to the Owner to carry out any soil, water or environmental tests, inspections or surveys.
   2. The Developer will cause as little disturbance and damage as possible when entering the Property and will immediately at its own cost make good any damage caused.
   3. The Developer acknowledges that the Owner has given the Developer, and others authorised by the Developer, permission and the opportunity to inspect, survey and carry out investigations as to the condition of the Property and that by exercising the Developer's Option, the Developer will be acknowledging that it has formed its own view about the condition and suitability of the Property for the Developer's purposes.
7. EXERCISE OF DEVELOPER'S OPTION
   1. Provided that Planning Permission has been granted, the Developer may exercise the Developer's Option at any time during the Developer's Option Period by serving a Developer's Option Notice on the Owner.
   2. The Developer's Option may only be exercised in respect of the whole of the Property and not in respect of part only.
8. DEPOSIT
   1. On the date of exercise of the Developer's Option, the Developer will pay the Deposit to the Owner's Conveyancer as stakeholder on terms that on completion, the Deposit is paid to the Owner with accrued interest.
   2. The Deposit must be paid by Electronic Payment.
   3. if the Deposit is not paid on the date of exercise of the Developer's Option, the Developer's Option Notice will be null and void.
   4. The provisions of clause 38.5 to clause 38.8 (inclusive) will only apply if:
      1. the Deposit is less than 10% of the Purchase Price; or
      2. no Deposit is payable upon exercise of the Developer’s Option.
   5. In this clause, the expression **Deposit Balance** means:
      1. (where the Deposit is less than 10% of the Purchase Price) the sum calculated by deducting the Deposit from 10% of the Purchase Price; or
      2. (where no Deposit is payable upon exercise of the Developer’s Option) a sum equal to 10% of the Purchase Price.
   6. If completion does not take place on the Completion Date due to the default of the Developer, the Developer will immediately pay by Electronic Payment the Deposit Balance (together with interest on it at the Contract Rate for the period from and including the Completion Date to and including the date of actual payment).
   7. After the Deposit Balance has been paid pursuant to clause 38.6, it will be treated as forming part of the Deposit for all purposes of this agreement.
   8. The provisions of clause 38.5 to clause 38.8 (inclusive) are without prejudice to any other rights or remedies of the Owner in relation to any delay in completion.
9. SALE AND PURCHASE
   1. If the Developer's Option is exercised in accordance with the terms of this agreement, the Owner will sell and the Developer will buy the Property at the Developer's Purchase Price on the terms of this agreement.
   2. The Developer cannot require the Owner to:
      1. transfer the Property or any part of it to any person other than the Developer; or
      2. transfer the Property in more than one parcel or by more than one transfer; or
      3. apportion the Purchase Price between different parts of the Property.
10. CONDITIONS
    1. Upon exercise of the Developer’s Option, the Part 1 Conditions will be incorporated in this agreement so far as they:
       1. apply to a sale by private treaty;
       2. relate to freehold property;
       3. are not inconsistent with the other clauses in this agreement; and
       4. have not been modified or excluded by any of the other clauses in this agreement.
    2. The terms of this agreement have the same meaning when used in the Part 1 Conditions.
    3. References in the Part 1 Conditions to:
       1. "seller" means the Owner; and
       2. "buyer" means the Developer.
    4. Upon exercise of the Developer’s Option, the Part 2 Conditions will not be incorporated into this agreement.
    5. The following Conditions are amended:
       1. Condition 1.1.1(d) so that reference to completion date in Condition 1.1.1(d) is to the Completion Date as defined by this agreement;
       2. Condition 1.1.1(e) so that reference to contract rate in Condition 1.1.1(e) is to the Contract Rate as defined by this agreement;
       3. Condition 1.1.1(o) so that reference to VAT in Condition 1.1.1(o) is to VAT as defined by this agreement;
       4. Condition 1.1.1(p) so that reference to working day in Condition 1.1.1(p) is to Working Day as defined in this agreement;
       5. Condition 1.1.3(b), so as to read "in the case of the seller, even though a mortgage remains secured on the property, if the amount to be paid on completion enables the property to be transferred freed of all mortgages, (except those to which the sale is expressly subject) or if the seller produces reasonable evidence that this is the case";
       6. Condition 7.6.3 so that reference to condition 4.1.2 is reference to clause 45;
       7. Condition 9.1.1 by the deletion of the words "Completion date is twenty working days after the date of the contract";
       8. Conditions 9.1.2 and 9.1.3, by the deletion of 2.00 pm as the stipulated time and the substitution of 1.00 pm;
       9. Condition 9.4, so as to add "(d) any other sum which the parties agree under the terms of the contract should be paid or allowed on completion";
       10. Condition 9.7 so as to read "The buyer is to pay the money due on completion by Electronic Payment and, if appropriate, by an unconditional release of a deposit held by a stakeholder"; and
       11. Condition 10.1, so as to read, "If any plan or statement in the contract, or in written replies which the seller's conveyancer has given to any enquiry raised by the buyer's conveyancer before the date of the contract, is or was misleading or inaccurate due to any error or omission, the remedies available are as follows … ".
    6. The following Conditions will not apply:
       1. Condition 1.1.4(a);
       2. Condition 1.2;
       3. Condition 1.3;
       4. Condition 1.5;
       5. Conditions 2.1 and 2.2;
       6. Conditions 3.2.1 and 3.2.2
       7. Conditions 4.1.1, 4.1.2 and 4.1.3;
       8. Conditions 7.1, 7.2, 7.3.1, 7.4.2 and 7.6.2;
       9. Condition 7.6.5(b);
       10. Conditions 8.2.2, 8.2.3 and 8.2.4(b);
       11. Condition 9.2.1; and
       12. Condition 9.8.3
11. RISK AND INSURANCE
    1. With effect from exercise of the Developer’s Option, the Property will be at the Developer's risk and the Owner will be under no obligation to the Developer to insure it.
    2. The Developer will not be entitled to refuse to complete or to delay completion due to any event occurring after exercise of the Developer’s Option that results in:
       1. any damage to the Property or any part of it; or
       2. any deterioration in the condition of the Property.
12. DEDUCING TITLE
    1. The Owner's title to the Property has been deduced to the Developer's Conveyancer before the date of this agreement
    2. The Developer is deemed to have full knowledge of the Owner's title to the Property and is not entitled to raise any objection, enquiry, requisition or claim in relation to it.
13. VACANT POSSESSION
    1. The Property will be sold with vacant possession on completion.
    2. The following fixtures and fittings on the Property are excluded from the sale and the Owner may at any time before completion remove them from the Property and the Developer will raise no objections:

[ ]

1. TITLE GUARANTEE

The Owner will transfer the Property with full title guarantee.

1. MATTERS AFFECTING THE PROPERTY
   1. The Owner will sell the Property free from incumbrances other than:
      1. any matters, contained or referred to in the entries or records made in registers maintained by [HM Land Registry as at [ ] under title number [ ]
      2. any matters discoverable by inspection of the Property before the date of exercise of the Developer’s Option;
      3. any matters which the Owner does not and could not reasonably know about;
      4. any matters disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before exercise of the Developer’s Option;
      5. public requirements; and
      6. any matters which are unregistered interests which override registered dispositions under Schedule 3 to the Land Registration Act 2002;
   2. The Developer is deemed to have full knowledge of the matters referred to in clause 45.1 and will not raise any enquiry, objection, requisition or claim in respect of any of them.
2. TRANSFER
   1. The transfer to the Developer will be in the agreed form annexed to this agreement
   2. The Owner and the Developer will execute the transfer in original and counterpart.
3. DEVELOPER'S PURCHASE PRICE
   1. In the event of exercise of the Developer's Option, the Developer's Purchase Price will be the amount agreed or determined as [ ]% of the Market Value.
   2. If the parties reach agreement on the Developer's Purchase Price within [ ] [Working Days after the date of exercise of the Developer's Option, they will immediately endorse and date a memorandum of the Developer's Purchase Price on the Developer's Option Notice and the date of the memorandum will be the date of agreement of the Developer's Purchase Price for the purposes of clause 50.1.2.
   3. If the Owner and the Developer fail to agree on the Market Value within [ ] [Working Days after the date of exercise of the Developer's Option, either party may refer the matter for determination by an Expert.
   4. The parties will agree on the appointment of the Expert and will agree with the Expert the terms of the appointment.
   5. If the Owner and the Developer are unable to agree on an Expert or the terms of the appointment within [ ] [Working Days after either party serving details of a suggested Expert of the other, either party will then be entitled to request the President for the time being of the RICS to appoint the Expert and to agree with the Expert the terms of the appointment.
   6. The Expert is required to prepare a written decision and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to the Expert.
   7. If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause 47 then:
      1. the Owner and the Developer may apply to the President for the time being of the RICS to discharge the Expert and to appoint a replacement Expert; and
      2. this clause 47 will apply to the new Expert as if they were the first Expert appointed.
   8. The Owner and the Developer are entitled to make submissions to the Expert including oral submissions and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
   9. To the extent not provided for by this clause 47, the Expert may in their reasonable discretion determine such other procedures to assist with the conduct of the determination as the Expert considers just or appropriate, including (to the extent the Expert considers necessary) instructing professional advisers to assist the Expert in reaching a determination.
   10. The Owner and the Developer will with reasonable promptness supply each other with all information and give each other access to all documentation and personnel and/or things as the other party may reasonably require to make a submission under this clause.
   11. The Expert will act as an expert and not as an arbitrator. The Expert will determine the Market Value. The Expert's written decision on the matters referred to the Expert will be final and binding on the parties in the absence of manifest error or fraud.
   12. In default of agreement pursuant to clause 47.2, the Market Value will be the figure determined by the Expert and the date of issue of the Expert's written decision will be taken as the date of determination of the Purchase Price for the purposes of clause 50.1.2.
   13. Each party will bear its own costs in relation to the reference to the Expert. The Expert's fees and any costs properly incurred by the Expert in arriving at a determination (including any fees and costs of any advisers appointed by the Expert) will be borne by the parties equally [or in such other proportions as the Expert will direct.
   14. Each party will act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching a determination.
4. LEGAL AND SURVEYOR'S COSTS

The Developer will pay £[ ] towards the Owner's [reasonable] legal and surveyors' costs and disbursements on a full indemnity basis including any irrecoverable VAT incurred in connection with the preparation of this agreement and completion of the sale of the Property and the Owner entering into any Planning Obligation. The Developer will make the payment by Electronic Payment on the date of this agreement.

1. VAT
   1. Each amount stated to be payable by the Developer to the Owner under or pursuant to this agreement is exclusive of VAT (if any).
   2. If VAT is chargeable on any supply made by the Owner under or pursuant to this agreement, the Developer will pay the Owner an amount equal to that VAT as additional consideration on the date that the supply is made.
2. COMPLETION
   1. In the event of exercise of the Developer's Option, completion will take place on the later of:
      1. the date [ ] [Working Days after the date of service of the Developer's Option Notice; or
      2. the date [ ] [Working Days after the date that the Developer's Purchase Price is agreed or determined.
   2. In the event of exercise of the Owner's Option, completion will take place on the date [ ] [Working Days after the date of service of the Owner's Option Notice.
3. NON-EXERCISE OF DEVELOPER'S OPTION AND OWNER'S OPTION
   1. If the Developer's Option is not exercised in accordance with the terms of this agreement or if the Owner terminates this agreement in accordance with the terms of this agreement, the Developer will remove all entries relating to the Developer's Option registered against the Owner's title to the Property within ten Working Days after the earlier of:
      1. the expiry of the Developer's Option Period; or
      2. the termination of this agreement in accordance with the terms of this agreement.
   2. If the Developer's Option is not exercised in accordance with the terms of this agreement or if the Owner terminates this agreement in accordance with the terms of this agreement, the Developer will within ten Working Days after the expiry of the Owner's Option Period:
      1. deliver to the Owner all documentation under the Developer's control relating to the Application, and any Planning Obligation and any appeal; and
      2. procure the assignment to the Owner of the full copyright in, and take any other steps required to ensure that the Owner has the rights to use, the documentation referred to in clause 51.2.1 without payment to any person.
4. TERMINATION
   1. Without affecting any other right or remedy available to it, the Owner may terminate this agreement with immediate effect by giving notice to the Developer if any of the following events occur:
      1. the Developer is in fundamental breach of any of its obligations in this agreement;
      2. the Developer is in substantial breach of any of its obligations in this agreement and has failed to rectify the breach within a reasonable time after receiving notice to rectify from the Owner;
      3. the Developer suspends or threatens to suspend payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
      4. the Developer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Developer with one or more other companies or the solvent reconstruction of the Developer;
      5. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Developer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Developer with one or more other companies or the solvent reconstruction of the Developer;
      6. an application is made to court or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Developer (being a company);
      7. the holder of a qualifying floating charge over the assets of the Developer (being a company) has become entitled to appoint or has appointed an administrative receiver;
      8. a person becomes entitled to appoint a receiver over the assets of the Developer or a receiver is appointed over the assets of the Developer;
      9. the Developer (being an individual) is the subject of a bankruptcy petition or order or makes an application for a bankruptcy order;
      10. a creditor or encumbrancer of the Developer attaches or takes possession of, or an execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Developer’s assets and such attachment or process is not discharged within 14 Working Days;
      11. any event occurs, or proceeding is taken, with respect to the Developer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 52.1.3 to clause 52.1.10 (inclusive);
      12. the Developer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
      13. the Developer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs;
      14. the Developer (being a company) is struck off from the Register of Companies; or
      15. the Developer otherwise ceases to exist.
5. ENTIRE AGREEMENT
   1. This agreement and the documents annexed to it constitute the entire agreement and understanding of the parties and supersedes any previous agreement or understanding between them relating to the subject matter of this agreement.
   2. The Developer acknowledges and agrees that in entering into this agreement, it does not rely on and will have no remedy in respect of any statement, representation, warranty, collateral agreement or other assurance (whether made negligently or innocently) of any person (whether party to this agreement or not) other than:
      1. as expressly set out in this agreement or the documents annexed to it; or
      2. in any written replies which the Owner's Conveyancer has given to any enquiries raised by the Developer's Conveyancer before exchange of this agreement.
   3. Nothing in this clause 53 will, however, operate to limit or exclude any liability for fraud.
6. JOINT AND SEVERAL LIABILITY

Where the Developer comprises more than one person, those persons will be jointly and severally liable for the obligations and liabilities of the Developer arising under this agreement. The Owner may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

1. NOTICES
   1. Save as provided in clause 55.6, in this clause, any reference to a notice includes the Developer's Option Notice.
   2. Any notice given under this agreement must be in writing and signed by or on behalf of the party giving it.
   3. Any notice or document to be given or delivered under this agreement must be:
      1. delivered by hand; or
      2. sent by pre-paid first class post or other next Working Day delivery service; or
      3. sent through the document exchange (DX)
   4. Any notice or document to be given or delivered under this agreement must be sent to the relevant party as follows:
      1. to the Owner at:

[ADDRESS]

[DX: ]

marked for the attention of [ ]

or at the Owner's Conveyancer, quoting reference [ ];

* + 1. to the Developer at:

[ADDRESS]

[DX: ]

marked for the attention of [ ]

or at the Developer's Conveyancer, quoting reference [ ];

or as otherwise specified by the relevant party by notice in writing to the other party.

* 1. Any change of the details in clause 55.4 specified by the relevant party by notice in writing to each other party will take effect for the party notified of the change at 9.00 am on the later of:
     1. the date, if any, specified in the notice as the effective date for the change; or
     2. the date five Working Days after deemed receipt of the notice.
  2. Giving or delivering a notice (other than the Developer's Option Notice) or a document to a party's conveyancer has the same effect as giving or delivering it to that party.
  3. Any notice or document given or delivered in accordance with clause 55.2, clause 55.3 and clause 55.4 will be deemed to have been received:
     1. if delivered by hand, on signature of a delivery receipt provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day; or
     2. if sent by pre-paid first class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting; or
     3. if sent through the DX, at 9.00 am on the second Working Day after being put into the DX.
  4. In proving delivery of a notice or document, it will be sufficient to prove that:
     1. a delivery receipt was signed; or
     2. the envelope containing the notice or document was properly addressed and posted by pre-paid first class post or other next Working Day delivery service; or
     3. the envelope containing the notice or document was properly addressed and was put in the DX.
  5. A notice given or document delivered under this agreement will not be validly given or delivered if sent by email.
  6. This clause 55 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

1. THIRD PARTY RIGHTS

A person who is not a party to this agreement will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

1. GOVERNING LAW

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the law of England and Wales.

1. JURISDICTION

Subject to clause 47, each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

**This agreement** has been entered into on the date stated at the beginning of it.

1. - Developer's Option Notice

To: [OWNER/SUCCESSOR IN TITLE] at:

[ADDRESS]

[DX: [DX NUMBER]]

[Fax: [FAX NUMBER]]

for the attention of [NAME/POSITION]

[SUCH OTHER ADDRESS/ DX NUMBER/ FAX NUMBER/ FOR THE ATTENTION OF SUCH OTHER PERSON, AS WAS LAST NOTIFIED IN WRITING BY THE OWNER/SUCCESSOR IN TITLE]

**[BY HAND]**

**[BY PRE-PAID FIRST CLASS POST]**

**[BY [OTHER NEXT WORKING DAY DELIVERY SERVICE]]**

**[BY DOCUMENT EXCHANGE (DX)]**

**[BY FAX]**

Pursuant to an Option Agreement ("Agreement") dated [DATE] made between [OWNER] and [DEVELOPER] relating to [PROPERTY]:

[DEVELOPER/SUCCESSOR IN TITLE] gives [OWNER/SUCCESSOR IN TITLE] notice of the exercise of the Developer's Option contained in the Agreement to buy the Property on the terms set out in the Agreement.

DATE:

SIGNED BY [NAME/NAME OF DIRECTOR] [for and on behalf of]:

[DEVELOPER/SUCCESSOR IN TITLE]

|  |  |  |
| --- | --- | --- |
| Owner execution Clause |  |  |
|  |  |  |
|  |  |  |
| Developer execution clause |  |  |